Registered No. M. 4631

GAZETTE EXTRAORDINARY

Published by Authority

Vol. IV. Trivandrum, Thursday, 19th March 1953. / 6th Meenam 1128. No. 19.

NOTIFICATION.

EL-1-3632|53|EHLSG.

In exercise of the powers conferred by Sections 7, 9, 11, 11A, 18, 97 and 98 of the Travancore-Cochin Panchayats Act, II of 1950, Government are pleased to make the following further amendments to the Travancore-Cochin Panchayat Rules, 1951, the same having been previously published as required by sub-section (2) of Section 98 of the said Act.

Government Secretariat,
E. H. L. S. G. Department,
Election Section,
Trivandrum, dated 19-3-1953.

By order of His Highness
the Raj Pramukh
P. I. Jacob
Secretary to Government.

B

AMENDMENTS TO PANCHAYAT RULES.

1. For clause (c) of Rule 3 the following shall be substituted:—

"Election Officer" means any Officer appointed by the Election Authority to do any act or perform any function in connection with the Panchayat Elections under these Rules, and shall include, unless the context otherwise requires, an Assistant Election Officer performing any function which he is authorised to perform."

2. After Rule 3, the following shall be added as Rule 3A:—

"3A (1) The Election Authority may appoint one or more officers as Assistant Election Officers to assist the Election Officer in the performance of his functions."

"(2) Every Assistant Election Officer shall, subject to the control of the Election Officer, be competent to perform all or any of the functions of the Election Officer, provided that no Assistant Election Officer shall perform any of the functions which relate to the acceptance of nomination papers, or the scrutiny of nominations or the counting of votes, unless the Election Officer is unavoidably prevented from performing the said function."

3. In clause (b) of Rule 5 for the words "the Election Officer" the words "the Panchayat Inspector" shall be substituted.

4. In Rule 6 for the words "The Election Officer" the words "The Panchayat Inspector" shall be substituted.

5. In Rule 7 for the words "the Election Officer" the words "the Panchayat Inspector" shall be substituted.

6. In Rule 15—

(a) In sub-rule (3) the words "the Tahsildar of the Taluk" shall be substituted wherever the words "District Collector" occur, and

(b) For sub-rule (4) the following sub-rule shall be substituted, namely:—

(4) If any such appeal or appeals have been preferred, the Tahsildar shall record his decision after such summary enquiry as he thinks fit. He shall communicate the order passed by him on such appeal or appeals to the Election Officer within seven days from the date fixed for the scrutiny of nominations. The decision of the Tahsildar shall be final and shall not be called in question except by an election petition put in before an Election Commissioner appointed under Rule 72 of these Rules."

7. In Rule 16—

(a) in sub-rule (1) between the words "signed by him and delivered" and the words "to the Election Officer" the following shall be inserted:—

"in person or by his proposer, seconder or agent duly authorised in writing in this behalf", and.

(b) in sub-rule (2) the words "his Office", between the words "the notice board of" and "the Panchayat Office" shall be inserted.

8. In Rule 17—

(a) in sub-rule (1) put a comma after the words "Election Officer" and insert the following:—

"after assigning symbols as provided in sub-rule (2) of this rule" and

(b) in sub-rule (2) after clause (d), insert the following as clause (e):—

"(e) In every case where a symbol has been assigned to a candidate, such candidate shall forthwith be informed of the symbol so assigned and be supplied with a specimen thereof by the Election Officer".

9. In sub-rule (4) of Rule 19, for the words "the largest number of votes" wherever they occur the words "the largest number of valid votes" shall be substituted.

10. In Rule 23—

(a) put a comma after the words "at the back" and insert the following namely:—

"enclose it in a cover on which shall be written the words "Postal ballot paper" and the name of the Panchayat and the ward to which it relates,—

(b) between the words "send the same" and "to the Election Officer" the words "by prepaid post or by messenger" shall be inserted; and

(c) at the end of the rule, the following sentence shall be added, namely:—

"The Election Officer or other authorised person, on receiving the cover, shall endorse it with the date and hour of receipt and affix his initials thereto."

11. For Rule 24 the following shall be substituted, namely:—

"24(1) The Presiding Officer shall keep order at the Polling Station, shall see that the election is fairly conducted and regulate the number of electors to be admitted at one time and shall exclude therefrom all other persons except the following namely:—

(a) the Polling Officers;

(b) each Candidate and one agent of each candidate at a time (hereinafter referred to as the polling agent) appointed in writing by the candidate;

(c) the Police Officers and other public servants on duty;

(d) the companions of any blind or infirm electors who cannot move without help;

(e) a child in arms accompanying an elector;

(f) a woman elector's husband or other near relative accompanying her; and

(g) such other persons as may be admitted by the Presiding Officer from time to time for the purposes of identifying electors or otherwise assisting him in taking the poll:

Provided that the Election Authority and the Election Officer and their assistants shall always have access to the Polling Station, but no persons shall enter a polling compartment when an elector is inside it to cast his vote.

(2) The Presiding Officer shall close the polling station at the hour fixed in that behalf and shall not admit thereto any elector after that hour:

Provided that all electors present within the polling station before it is so closed shall be entitled to have their votes recorded.

(3) If any question arises as to whether any elector shall, for the purpose of the proviso to sub-rule (2), be deemed to be present within the polling station before it is closed, the question shall be referred for the decision of the Presiding Officer of such polling station and his decision shall be final."

12. After Rule 24 the following shall be added as Rule 24A, namely:—

"24A (1) Each validly nominated candidate may, at least 3 days before the commencement of the Poll, appoint one agent and two relief agents, to act as polling agents of such candidate at each polling station or booth, and such appointment shall be made by a letter in writing in duplicate in Form IV A signed by the candidate.

(2) As soon as may be after the appointment of each polling agent and in any case at least three days before the commencement of the poll, the candidate shall give notice of the appointment to the Election Officer by forwarding to such officer the letter of appointment referred to in sub-rule (1).

(3) The candidate shall also deliver the duplicate copy of the letter of appointment to the polling agent who shall, on the date fixed for the poll present the copy to, and sign the declaration contained therein before the Presiding Officer of the Polling Station or

booth, where such polling agent is appointed . duty, and the Presiding Officer shall thereafte retain it in his custody, and no polling agent shall be allowed to perform any duty at the Polling Station or booth unless he has complied with the provisions of this sub-rule."

13. In Rule 39, sub-rule (1) for the words "most valid votes" the words "the largest number of valid votes" shall be substituted.

14. For sub-rules (2) and (3) of Rule 42 the following shall be substituted:—

(2) The Election Officer, if he is not himself the Panchayat Inspector having jurisdiction over the Panchayat, shall forward to the Panchayat Inspector the packets of ballot papers, whether counted, rejected or tendered and the marked copies of the Electoral roll. The Panchayat Inspector shall retain such sealed packets and other similar packets which are in his custody as Election Officer, for a year from the date of declaration of results. The packets shall not be opened and their contents shall not be inspected or produced except under the orders of an Election Commissioner appointed under Rule 72 or of a competent court.

(3) The Panchayat Inspector shall cause them to be destroyed after one year from the date of the declaration of the result, unless otherwise ordered by an Election Commissioner or by a competent court.

15. For the existing Rule 43 the following shall be substituted namely:—

"43. When an election to fill a seat becomes necessary under Section 14 of the Act, the Election Authority shall call upon the ward concerned to elect a member on or before a specified date and the Election Officer shall thereupon issue the notice under sub-rule (1) of Rule 8 and take further steps to conduct the election".

16. The existing Rule 54 shall be renumbered as Rule 56 and the following inserted as Rules 54 and 55 namely:—

"54. *Penalty for illegal hiring or procuring of conveyances at Elections.* If any person is guilty of any such corrupt practice as is specified in sub-rule (6) of Rule 82 at or in connection with an election, he shall be punishable with fine which may extend to fifty rupees".

"55. Notwithstanding anything contained in the foregoing rules, the Election Authority, may, for special reasons, and with the previous approval of the Government, authorise the Election Officer to fix

dates and periods other than those specified or fixed by or under these rules for all or any of the stages of the election proceedings connected therewith, provided that the periods of interval for the stages of election under sub-rule (1) of Rule 8 shall not be reduced.

17. In Rule 58—

(a) at the end of the proviso after the words "Director" the words "or the Officer or other person authorised by him in that behalf and the Director or Officer or person authorised shall also give notice to the members of the Panchayat of the hour and date fixed" shall be added, and

(b) the following shall be added as an Explanation to the Rule, namely:—

"*Explanation.* Public notice under this Rule shall be given by hanging up the notice in the Panchayat Office, and if there is no Panchayat Office, at the Village Office or Offices, as the case may be".

18. *Rule 60.* The following shall be added at the end of Rule 60.

"The candidates shall be described in the nomination paper as in the electoral roll".

19. For Rule 61 the following shall be substituted.

"61 (1) The President then holding office or an Officer or person authorised by the Director, as the case may be, shall forthwith cause to be published by notice hung up in the Panchayat Office, and if there is no Panchayat Office, at the Village Office or Offices as the case may be, a list of such nominations in the following form:—

Serial Number	*Name of candidate*	*Father's, Karnavan's or Husband's Name*	*Address.*

(2) The list of nominations shall be arranged in the alphabetical order of the names of the candidates as they appear in the electoral roll, and the language of the alphabetical order shall be the one accepted for preparing the list of valid nominations in Form III.

(3) Any member of the Panchayat may, by a petition put in before the District Collector at least three days before the date of election, object to the nomination of any person whose name has been included in the above list, on the ground that such candidate is disqualified for Presidentship under Rule 59. The decision of the District Collector on such petition shall be final and it shall not be called in question except by an election petition put in before an Election Commissioner under Rule 82 C shall be communicated to the President holding office or

the Director or an officer or person authorised by the Director. If the decision of the District Collector under this rule is for any reasons not passed in time to permit of its being communicated to the President or the Officer or person conducting the election before the day fixed for the election, the election shall be postponed by the President or the Officer or person conducting the election as the case may be, to such further date as may be necessary."

20. In Rule 65

(a) in the first paragraph, after the words "the following form" the words "in the order followed under Rule 61" shall be inserted and

(b) In the second paragraph the following shall be inserted after the second sentence:—

"If a member is unable to read the voting paper or make a mark thereon and applies for assistance, the President or the Director or the Officer or the person authorised by the Director to conduct the election as the case may be, shall proceed along with the member to the place set apart for marking the voting paper and shall read the voting paper and if so required by him mark the voting paper according to the directions of the member and give it to him to be put in the ballot box. If the member owing to blindness or other infirmity is unable to put the voting paper in the ballot box, the person conducting the election shall himself put the voting paper. The candidates shall have a right to hear the member's direction and to watch the marking of the voting paper. In the case of every member whose voting paper is marked in this manner a record shall be maintained by the person conducting the election showing the reason why it was so marked.

21. In Rule 68 the words "the Government by or through" shall be deleted and the following added as a second sentence namely:—

"The name of the person elected as President or Vice President shall also be communicated by the Director to the Government for their information".

22. For Rules 71 to 82 the following shall be substituted:—

CHAPTER IV.

PART I.

Disputes Regarding Elections of Members of Panchayats.

71. In this Part, unless the context otherwise requires:—

(a) "agent" includes a polling agent and a counting agent and any person who, on the trial of an election petition or of an offence with respect to any election,

is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate;

(b) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election, and any such person shall be deemed to have been a candidate as from the time when, with the election in prospect, he began to hold himself out as a prospective candidate;

(c) "costs" means all costs, charges and expenses of or incidental to, a trial of an election petition;

(d) "election" means the election of a member of a Panchayat;

(e) "electoral right" means the right of a person to stand or not to stand as, or to withdraw from being a candidate, or to vote or refrain from voting at an election;

(f) "pleader" means any person entitled to appear and plead for another in a civil court and includes an advocate, a vakil and an attorney of a High Court;

(g) "returned candidate" means a candidate whose name has been published under Rule 45 of these Rules as duly elected.

72. *Presentation of Election Petitions to Election Commissioner.* (1) Save as otherwise provided, no election held under the Act of a member of a Panchayat shall be called in question except by an election petition presented in accordance with the provisions of this Part.

(2) The Election Commissioner shall be the District Munsiff having territorial jurisdiction over the Panchayat area. In the case of a Panchayat which lies within the jurisdiction of one or more District Munsiffs, the District Munsiff notified by Government shall be the Election Commissioner in respect of that Panchayat.

(3) An Election Commissioner exercising jurisdiction under these rules shall be deemed to exercise such jurisdiction as a *persona designata* and not in his capacity as a District Munsiff of the court over which he presides.

73. (1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-rules (1) and (2) of Rule 78 and Rule 79 to the Election Commissioner by any candidate at such election or any elector within 14 days of the date of publication of the name or names of the returned candidate or candidates at such election under Rule 45 of these Rules, but not before such publication.

Explanation:—In this sub-rule "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) An election petition shall be deemed to have been presented to the Election Commissioner

(a) when it is delivered to the Election Commissioner or to such other officer as may be appointed by him in this behalf:—

(i) by the person making the petition, or

(ii) by a person authorised in writing in this behalf by the person making the petition; or

(b) when it is sent by registered post and is delivered to the Election Commissioner or the Officer so appointed.

(3) A petitioner shall join as respondents to his petition all the candidates who were duly nominated at the election other than himself if he was so nominated.

(4) An election petition shall contain a concise statement of the material facts on which the petitioner relies and shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Act V of 1908) for the verification of pleadings.

(5) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt or illegal practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed such corrupt or illegal practice and the date and place of the commission of each such practice.

(6) The Election Commissioner may, upon such terms as to costs and otherwise as he may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may in his opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

(7) A petitioner may claim any one of the following declarations:—

(a) that the election of the returned candidate is void;

(b) that the election of the returned candidate is void and that he himself or any other candidate has been duly elected;

(c) that the election is wholly void.

(8) If the provisions of sub-rules (1), (2), (4), (5) or (6) of this Rule, or sub-rule (1) of Rule 31 are not complied with, the Election Commissioner shall dismiss the petition:

Provided that if a person making the petition satisfies the Election Commissioner that sufficient cause existed for his failure to present the petition within the period referred to in sub-rule (1) of this Rule, the Election Commissioner may in his discretion condone such failure.

Trial of Election Petitions.

74 (1) If, during the course of the trial, the Election Commissioner is for any reason unable to perform his functions or has to relinquish his office, the trial shall be continued by the Election Commissioner who succeeds him as if he had been the Election Commissioner from the commencement of the trial:

Provided that the Election Commissioner may, if he thinks fit, recall and re-examine any of the witnesses already examined.

(2) Where more petitions than one are presented in respect of the same election, the Election Commissioner may, in his discretion, try them separately or in one or more groups.

(3) The trial shall be held at such place as the Election Commissioner may appoint:

Provided that an Election Commissioner may, in his discretion, sit for any part of the trial at any other place in which the election to which the petition relates has taken place.

(4) The Election Commissioner may, require the Government Pleader of the District in which the election has taken place or some person acting under his instructions, to attend at the trial.

(5) The Government Pleader or the person acting under the instructions of the Government Pleader, as the case may be, shall, when so required attend at the trial and shall, take such part therein as the Election Commissioner may direct.

75 (1) The Election Commissioner, shall, as soon as may be, cause a copy of the petition together with a copy of the list of particulars referred to in sub-rule (5) of Rule 73, to be served on each respondent and of the President of the Panchayat concerned and the Election Authority. The petition and list shall be published by affixing copies thereof to the notice board of the Office where the enquiry is conducted and of the Panchayat Office, and at any time within fourteen days after such publication, any other candidate shall, subject to the provisions of sub-rule (1) of Rule 81 be entitled to be joined as a respondent.

(2) Subject to the provisions of the Act and of any rules made thereunder, every election petition shall be tried by the Election Commissioner, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Act V of 1908), to the trial of suits:

Provided that it shall be sufficient for the Election Commissioner to make a memorandum of the substance of the evidence of any witness examined by him and it shall not be necessary for the Election Commissioner to take down the evidence of any witness in writing at length unless he is, on the application of any party or otherwise, satisfied that there is any special reason for so doing:

Provided further that the Election Commissioner shall have the discretion to refuse for reasons to be recorded in writing

to examine any witness or witnesses if he is of the opinion that their evidence is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings.

(3) The provisions of the Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of the Act and these Rules, be deemed to apply in all respects to the trial of an election petition.

(4) Any appearance, application or act before the Election Commissioner may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that it shall be open to the Election Commissioner to direct any party to appear in person whenever the Election Commissioner considers it necessary.

(5) The Election Commissioner shall have the powers which are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters:—

(a) discovery and inspection;

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence taken on affidavit; and

(g) issuing commissions for the examination of witnesses and may summon and examine *suo moto* any person whose evidence appears to him to be material; and shall be deemed to be a civil court within the meaning of Sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

Explanation. For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Election Commissioner shall be the limits of the District in which the election was held.

(6) No witness or other person shall be required to state for whom he has voted at an election.

(7) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to expose him to any penalty or forfeiture:

Provided that:—

(a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the Election Commissioner; and

(b) an answer given by a witness to a question put by or before the Election Commissioner shall not, except

in the case of any criminal proceeding for prejury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(8) When a certificate of indemnity has been granted to any witness, it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IX—A of the Indian Penal Code (Act XLV of 1860) or the Rules in this Chapter arising out of the matter to which such certificates relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by the Act or these Rules or any other law.

(9) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Election Commissioner to such person, and shall, unless the Election Commissioner otherwise directs, be deemed to be part of the costs.

76 (1). When in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under Rule 75 given notice to the Election Commissioner of his intention to do so and has also given the security and the further security referred to in sub-rules (1) and (2) of Rule 81 respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and list of particulars required by sub-rules (4) and (5) of Rule 73 in the case of an election petition and shall be signed and verified in like manner.

77 (1) At the conclusion of the trial of an election petition, the Election Commissioner shall make an order—

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected; or

(d) declaring the election to be wholly void.

(2) At the time of making an order under sub-rule (1) of this Rule, the Election Commissioner shall also make an order—

(a) where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, recording —

(i) a finding whether any corrupt or illegal practice has or has not been proved to have been committed

by, or with the connivance of, any candidate or his agent at the election, and the nature of that corrupt or illegal practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and the nature of that practice, together with any such recommendations as the Election Commissioner may think proper to make for the exemption of any persons from any disqualifications which they may have incurred in this connection; and

(b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid:

Provided that no person shall be named in the order under sub-clause (ii) of clause (a) unless—

(a) he has been given notice to appear before the Election Commissioner and to show cause why he should not be so named; and

(b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the Election Commissioner and has given evidence against him, of calling evidence in his defence and of being heard.

(3) Any order as to costs under clause (b) of sub-rule (2) may include a direction for the payment of costs to the law officer attending the trial in pursuance of any requisition of the Election Commissioner under sub-rule (5) of Rule 74.

78. (1) If the Election Commissioner is of opinion

(a) that the election has not been a free election by reason that the corrupt practice of bribery or of undue influence has extensively prevailed at the election; or

(b) that the election has not been a free election by reason that coercion or intimidation has been exercised or resorted to by any particular community, group or section on another community, group or section, to vote or not to vote in any particular way at the election; or

(c) that the result of the election has been materially affected by the improper acceptance or rejection of any nomination,

the Election Commissioner shall declare the election to be wholly void.

Explanation. In clause (b) of this sub-rule, the expression "coercion or intimidation" means any interference

or attempt to interfere by whatever means with the free exercise of the right to vote or refrain from voting at an election, and includes a social or economic boycott of members of a community, group or section, or threat of such boycott, with intent to interfere with the free exercise of such right by those members.

(2) Subject to the provision of sub-rule (3), if the Election Commissioner is of opinion—

(a) that the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by any corrupt or illegal practice; or

(b) that any corrupt practice specified in Rule 82 has been committed by a returned candidate or his agent or by any other person with the connivance of a returned candidate or his agent; or

(c) that the result of the election has been materially affected by the improper reception or refusal of a vote or by the reception of any vote which is void, or by any non-compliance with the provisions of the Act or of any rules made under the Act or of any other Act or rules relating to the election, or by any mistake in the use of any prescribed form,

the Election Commissioner shall declare the election of the returned candidate to be void.

(3) If in the opinion of the Election Commissioner, a returned candidate has been guilty by an agent, of any corrupt practice specified in Rule 82, but the Election Commissioner is satisfied—

(a) that no such corrupt practice was committed at the election by the candidate and every such corrupt practice was committed contrary to the orders, and without the sanction or connivance, of the candidate;

(b) that all such corrupt practices were of a trival and limited character or took the form of customary hospitality which did not affect the result of the election;

(c) that the candidate took all reasonable means for preventing the commission of corrupt or illegal practices at the election; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate or any of his agents,

then the Election Commissioner may decide that the election of the returned candidate is not void.

79. (1) If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the Election Commissioner is of opinion—

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that but for the votes obtained by the returned candidate by corrupt or illegal practices the petitioner or such other candidate would have obtained a majority of the valid votes, the Election Commissioner shall after declaring the election of the returned candidate, to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

(2) If during the trial of an election petition, it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared, then—

(a) any decision made by the Election Officer shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision, the Election Commissioner shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

(3) The Election Commissioner shall, after announcing the orders made under sub-rules (1) and (2) of Rule 77, send a copy thereof to the President of the Panchayat concerned and the Election Authority. The records of the case shall be transmitted to the Election Authority.

(4) Every order of the Election Commissioner made under these Rules shall be final and conclusive.

(5) An order of the Election Commissioner under Rule 77, shall not take effect until it is published in the office of the Panchayat concerned.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

80. (1) An election petition may be withdrawn only by leave of the Election Commissioner if an application for its withdrawal is made.

(2) Where an application for withdrawal is made under sub-rule (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the office of the Election Commissioner and the Panchayat office concerned.

(3) If there are more petitioners than one, no application to withdraw an election petition shall be made except with the consent of all the petitioners.

(4) No application for withdrawal shall be granted if, in the opinion of the Election Commissioner, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

(a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the Election Commissioner may think fit;

(b) notice of the withdrawal shall be published in the office of the Election Commissioner and the Panchayat Office concerned;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and upon compliance with the conditions of sub-rule (1) of Rule 81 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Election Commissioner may think fit.

(6) When an application for withdrawal is granted by the Election Commissioner and no person has been substituted as petitioner under clause (c) of sub-rule (5) of this Rule, in place of the party withdrawing, the Election Commissioner shall intimate the fact to the Election Authority.

(7) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(8) Where an election petition abates under sub-rule (7) of this Rule, notice of the abatement shall be published in the office of the Election Commissioner, in the office of the Election Authority, and in the Panchayat Office.

(9) After a notice of the abatement of an election petition is published under sub-rule (8), any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and, upon compliance with the conditions of sub-rule (1) of Rule 81 as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the Election Commissioner may think fit.

(10) If before the conclusion of the trial of an election petition the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the Election Commissioner shall cause notice of such event to be published in the office

of the Election Commissioner, Election Authority, and Panchayat Office and thereupon any person, who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition and shall be entitled to continue the proceedings upon such terms as the Election Commissioner may think fit.

COSTS AND SECURITY FOR COSTS.

81. (1) The petitioner shall enclose with the petition a Government Treasury receipt showing that a deposit of Fifty Rupees has been made by him in a Government Treasury in favour of the Election Commissioner as security for the costs of the petition.

(2) During the course of the trial of an election petition the Election Commissioner may at any time call upon the petitioner to give such further security for costs as he may direct; and may, if the petitioner fails to do so, dismiss the petition.

(3) No person shall be entitled to be joined as a respondent under sub-rule (1) of Rule 75, unless he has given such security for costs as the Election Commissioner may direct.

(4) Costs including pleaders' fees shall be in the discretion of the Election Commissioner.

(5) The Election Commissioner may allow interest on costs at a rate not exceeding three *per cent.* per annum, and such interest shall be added to the costs.

(6) If in any order as to costs under the provisions of this Chapter there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full, or so far as possible out of the security deposit and the further security deposit, if any, made by such party under this Chapter, on an application made in writing in that behalf within a period of six months from the publication of such order under Rule 79 to the Election Commissioner by the person in whose favour the costs have been awarded.

(7) If there is any balance left of any of the said security deposits after payment under sub-rule (1) of the costs referred to in that sub-rule such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of six months, the whole of the said security deposits may on an application made in that behalf in writing to the Election Commissioner by the person by whom the deposits have been made, or if such person dies after making such deposits, by the legal representative of such person, be returned to the said person or to his legal representative, as the case may be.

(8) Any order as to costs under the provisions of this Chapter may be produced before the principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such court shall execute the order or cause the same to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-rule (6) no application shall lie under this sub-rule within a period of six months from the date of publication of such order under Rule 79 unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-rule owing to the insufficiency of the amount of the security deposits referred to in that sub-rule.

Corrupt Practices.

82. The following shall be deemed to be corrupt practices for the purpose of this Part:—

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

(a) a person to stand or not to stand as, or to withdraw from being, a candidate at an election; or

(b) an elector to vote or refrain from voting at an election

or as to reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature, or

(ii) an elector for having voted or refrained from voting.

Explanation. For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money, and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause, any such person as is referred to therein who—

(i) threatens any candidate, or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of a public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause

(3) The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other ward, he is not entitled to vote.

(4) The removal of a ballot paper from the polling station during the polling hours by a candidate or his agent, or by any other person with the connivance of a candidate or his agent.

(5) The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the connivance of a candidate or his agent for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling Station

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the

purpose of conveying him or them to or from any such polling station, shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:—

Provided further that the use of any public transport vehicle or vessel or any railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation. In this clause, the expression "Vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the connivance of a candidate or his agent, any assistance for the furtherance of the prospects of the candidate's election from any person serving under the Government other than the giving of vote by such person.

Explanation. For the purpose of this clause—

(a) a person serving under the Government shall include a village officer, by whatever name he is called, employed in this State, whether the office he holds is a whole time office or not, but shall not include any person (other than any such village officer as aforesaid) who has been declared by this Government to be a person to whom the provisions of this clause shall not apply.

82. A. The following shall also be deemed to be corrupt practices for the purposes of this Part:—

(1) Any act specified in clauses (1) to (7) of Rule 82, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

(2) The application by a person at an election for a ballot paper in the name of any other person, whether living or dead, or in a fictitious name, or for a ballot paper in his own name when, by reason of the fact that he has already voted in the same or some other Ward he is not entitled to vote.

(3) the receipt of, or agreement to receive, any gratification whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting,

or for inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation. For the purposes of this clause the term "gratification" has the same meaning as it has for the purposes of clause (1) of Rule 82.

(4) The systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious and national symbols, such as, the national flag and the national emblem, for the furtherance of the prospects of a candidate's election.

ILLEGAL PRACTICES.

82. B. The following shall be deemed to be illegal practices for the purposes of this Part:—

(1) The hiring, using or letting as a committee room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

(2) The issuing of any circular, placard or poster having a reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

PART II.

DISPUTES REGARDING ELECTION OF PRESIDENTS AND VICE-PRESIDENTS OF PANCHAYATS.

82 C. (1) Save as otherwise provided, no election of a President or Vice-President of a Panchayat shall be called in question except by an election petition presented in accordance with the provisions of this Part.

(2) The Election Commissioner shall be the District Judge having territorial jurisdiction over the Panchayat area. In the case of a Panchayat which lies within the jurisdiction of two or more District Judges, the District Judge notified by the Government shall be the Election Commissioner in respect of that Panchayat.

(3) An Election Commissioner exercising jurisdiction under these rules shall be deemed to exercise such jurisdiction as a *persona designata* and not in his capacity as a District Judge of the court over which he presides.

82 D. The provisions of Rules 71 and 73 to 82 B of Part I of this Chapter shall apply in regard to the presentation, trial, withdrawal and abatement of petitions questioning the validity of the election of Presidents and Vice-Presidents of Panchayats, costs and security of costs, corrupt and illegal

practices in relation to such election petitions, subject to the following modifications and omissions:—

(1) In Rule 71—(a) clause (a) shall be omitted;

(b) for clause (d) the following shall be substituted, viz.

"(d) "election' ' means the election of a President or Vice-President of a Panchayat" and

(c) in clause (g) for the word and figures "Rule 45" the word and figures "Rule 68" shall be substituted.

(2) For the words "an elector" or "elector" wherever they occur in Rules 73 to 82 B, the words 'a member' and 'member' respectively shall be substituted:—

(3) For the words "candidate or his agent" wherever they occur in Rules 73 to 82 B the word 'candidate' shall be substituted;

(4) In sub-rule (1) of Rule 73—

(a) for the words "name or names of the returned candidate or candidates" the words 'name of the returned candidate' shall be substituted, and

(b) for the word and figures "Rule 45", the word and figures "Rule 68" shall be substituted.

(5) In Rule 78 sub-rule (3) shall be omitted.

(6) In Rule 79, in clause (a) of sub-rule (2) for the words "the Election Officer" the words "the officer" shall be substituted.

(7) In Rule 82, clauses (3), (4), (6) and (7) shall be omitted.

(8) In Rule 82A—(a) in clause (1) for "clauses (1) to (7) "clauses (1), (2) and (5)" shall be substituted; and

(b) clause (2) shall be omitted.

23. In the forms appended to these Rules, the following form shall be inserted as Form IV A, after Form IV, namely:—

FORM IV A.

(See Rule 24 A).

ELECTION TO WARD NO..........OF........PANCHAYAT.

Appointment of Polling Agent.

To

The Presiding Officer for Polling Station. Ward No.......
................Panchayat.

I, ... a candidate at the present election do hereby give notice that I have appointed .... as a polling agent to attend the polling station.............. the polling booth No. .... at the polling station..........

Date · *Signature of Candidate.*

I agree to act as polling agent.

Date *Signature of Polling Agent.*

Declaration of polling agent to be signed before the Presiding Officer.

I hereby declare that I will not at this election for Ward No. .... do anything forbidden by *Rule 53 of the Travancore-Cochin Panchayat Rules 1951, which I have read|which has been read over to me.

Signature of Polling Agent.

Signed before me.

Date. *Presiding Officer.*

**Rule 53.*

Infringement of secrecy of election.

Every Presiding or Polling Officer, or other person in attendance at the polling room who, except for some purpose authorised by law, communicates to any person any information showing directly or indirectly for which candidate any voter has voted and every person who by any improper means procures any such information, shall be punished with fine which may extend to Rs. 50.

PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRESSES,
AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM.

Registered No. M. 4631.

GAZETTE EXTRAORDINARY

Published by Authority

Vol. IV. Trivandrum, Friday, 20th March 1953 / 7th Meenam 1128 No. 20

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PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM, 1953.

I

NOTIFICATIONS

(1)

EL-1-363|53|EHLSG. 19th March 1953.

In exercise of the powers conferred by Section 9 and Rules 4 and 5 of Part A and Rules 4 and 5 of Part B of Schedule III to the Travancore-Cochin Panchayats Act, 1950, II of 1950, and all other powers hereunto enabling, Government are pleased to determine the term of the members and presidents of the existing Panchayats as upto the noon of 5th July 1953. The term of office of the members elected to all Panchayats in the State at the ensuing elections will be 3 years commencing from the noon of 5th July 1953.

(2)

EL-1-363|53|EHLSG. 19th March 1953.

In exercise of the powers conferred by Section 24 of the Travancore-Cochin Panchayats Act, 1950, II of 1950, Government are pleased to appoint the Panchayat Inspectors as Panchayat Officers for the Panchayats within their respective jurisdictions from the noon of 5th July 1953 till the Presidents of the respective Panchayats take charge of their office, after election.

Government Secretariat,
E. H. L. S. G. Department,
Election Section,
Trivandrum.

By order of His Highness
the Raj Pramukh,
P. I. JACOB,
Secretary to Government.

II

NOTIFICATION.

EL-1-2959|53|EHLSG. 20th March 1953.

Under clause (h) of sub-section (2) of Section 13 of the Travancore-Cochin Panchayats Act, 1950 (II of 1950), Government hereby recognise the following services as services suspension or dismissal from which will entail disqualification under the said clause:—

1. Service in any of the Devaswoms and institutions under the control of the Travancore Devaswom Board and of the Cochin Devaswom Board;

2. Service under any of the Municipal Councils in the State and the Council of the Corporation of the City of Trivandrum; and

3. Service under any of the Panchayats and Village Unions established under the Travancore Village Panchayats Act and the Travancore Village Unions Act, respectively.

Government Secretariat,
E. H. L. S. G. Department,
Election Section,
Trivandrum.

By order of His Highness
the Raj Pramukh,
P. I. JACOB,
Secretary to Government.

GAZETTE EXTRAORDINARY

Published by Authority.

Vol. IV.	Trivandrum,	Monday,	23rd March 1953. / 10th Meenam 1128.	No. 21.

NOTIFICATION.

No. LD (b) 3-4439|52|Law.

The following Act, passed by the Legislative Assembly and assented to by His Highness the Rajpramukh, is hereby published for general information.

By order of His Highness
the Raj Pramukh,

N. S. Radhakrishna Sarma,
Secretary to Government.

Government Secretariat,
Law Department,
Trivandrum, 23rd March 1953.

ACT III OF 1953.

THE MUNICIPAL (TEMPORARY PROVISIONS) ACT.

Preamble.

Whereas it is expedient further to amend the Trivandrum City Municipal Act, IV of 1116, the Travancore District Municipalities Act, 1116 (XXIII of 1116) and the Cochin Municipal Act, XVIII of 1113 for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Municipal (Temporary Provisions) Act, 1953.

Short title, commencement, and duration.

(2) It shall come into force at once.

(3) It shall cease to be in force at noon on the first day of January 1956 except as respects things done or omitted to be done before noon on that date; and Section 7 of the Travancore-Cochin Interpretation and General Clauses Act, 1125 (VII of 1125) shall apply as if this Act had then been repealed by an Act of the Travancore-Cochin State Legislature.

The Municipal Acts to have effect subject to certain modifications.

2. During the continuance in force of this Act, the provisions of the Trivandrum City Municipal Act, IV of 1116, the Travancore District Municipalities Act, 1116 (XXIII of 1116), and the Cochin Municipal Act, XVIII of 1113 shall have effect subject to the following modifications:—

(1) In the Trivandrum City Municipal Act, IV of 1116, to sub-section (1) of Section 57, the following proviso shall be added, namely:—

"Provided that, in the case of the Council constituted immediately before the commencement of the Municipal (Temporary Provisions) Act, 1953, the term of office of the Councillors shall be for the period beginning at noon on the fifteenth day of February 1953 and expiring at noon on the first day of January 1956."

(2) In the Travancore District Municipalities Act, 1116 (XXIII of 1116)—

(a) for the proviso to sub-section (1) of Section 8, the following proviso shall be substituted, namely:—

"Provided that, in the case of the Councils constituted immediately before the commencement of the Mnnicipal (Temporary Provisions) Act, 1953, the term of office of the Councillors shall be for the period beginning at noon on the fifteenth day of February 1953 and expiring at noon on the first day of January 1956.";

(b) after Section 392, the following section shall be inserted, namely:—

Special provisions in the case of newly constituted Councils.

"392A. (1) Notwithstanding anything contained in this Act, when a Municipality is constituted for the first time, the Government may appoint a Special Officer to exercise the powers, discharge the duties and perform the functions of a Municipal Council and its Chairman and executive authority.

(2) The Special Officer shall cause arrangements for election to be made so that the newly elected Councillors may come into office on a day to be fixed by the Government.

(3) The Special Officer shall exercise the powers, discharge the duties and perform the functions of the Municipal Council until the Council has been constituted, of the Chairman until a Chairman has been elected by the Council, and of the executive authority until a Chairman has been elected or a Commissioner has been appointed, as the case may be.

(4) As soon as may be after the constitution of the Council, a meeting of the Council shall be held on a day and at a time fixed by the Special Officer for the election of a Chairman. If at such meeting no Chairman is elected, a fresh election shall be held on such day and at such time as may be fixed by the Special Officer.

(5) The term of office of the Councillors or of the Councillors elected in their places at casual vacancies shall expire at the end of three years if the day referred to in sub-section (2) is the first day of January and in other cases at the end of three years from the first day of January immediately preceding such day."

(3) In the Cochin Municipal Act, XVIII of 1113—

(a) to sub-section (1) of Section 8, the following proviso shall be added, namely:—

"Provided that, in the case of the Councils constituted immediately before the commencement of the Municipal (Temporary Provisions) Act, 1953, the term of office of the Councillors shall be for the period beginning at noon on the fifteenth day of February 1953 and expiring at noon on the first day of January 1956.";

(b) in sub-section (5) of Section 374, for the word "November" in both places where it occurs, the word "January" shall be substituted.

Amendment of Section 365, Act IV of 1116.

3. Until such time as a fresh division of the City into territorial divisions becomes necessary, Section 365 of the Trivandrum City Municipal Act, IV of 1116, shall have effect as if—

(i) in the opening paragraph, for the words " and the power to issue notifications under Section 46 are", the words "shall be" were substituted; and

(ii) in clause (a), the words "or notification" were omitted.

4. In their application to the preparation and passing of the budget estimates of the Corporation of Trivandrum and the Municipal Councils constituted under the Travancore District Municipalities Act, 1116 (XXIII of 1116) for the financial year commencing on the first day of April 1953, the provisions of the Trivandrum City Municipal Act, IV of 1116 and the Travancore District Municipalities Act, 1116 (XXIII of 1116) shall have effect subject to the following modifications:—

Budget provisions of Municipal Acts to have effect subject to certain modifications.

(1) In the Trivandrum City Municipal Act, IV of 1116—

(a) in Section 159, for the words "fifteenth day of January each year," the words and figures "last day of February 1953" shall be substituted;

(b) in Section 160, for the words "fifteenth day of January" in sub-section (1), the words and figures "last day of February 1953", and for the words "fifteenth day of February" in sub-section (3), the words and figures "fifteenth day of March 1953" shall be substituted;

(c) in Section 161, for the words "first week of March," the words and figures "last week of March 1953" shall be substituted:

(2) In Section 127 of the Travancore District Municipalities Act, 1116 (XXIII of 1116), for the words "before the end of January in each year", the words and figures "before the end of the first week of March 1953" shall be substituted.

5. (1) The Municipal (Temporary Provisions) Ordinance, 1952 (IV of 1952) is hereby repealed.

Repeal and saving.

(2) The repeal by this Act of the said Ordinance shall not affect the previous operation thereof, and any order made, action taken, thing done or notification issued in the exercise of any powers conferred by the said Ordinance shall, for all purposes, be deemed to have been made taken, done or issued in the exercise of powers conferred by this Act as if this Act were in force at the time such order was made, action was taken, thing was done or notification was issued.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM, 1953.

Registered No. M. 4631.

GAZETTE EXTRAORDINARY

Published by Authority

Vol. IV.	Trivandrum, Tuesday,	24th March 1953 / 11th Meenam 1128	No. 22.

NOTIFICATION.

No. LD (b) 3-278|53|Law.

The following Act, passed by the Legislative Assembly and assented to by His Highness the Rajpramukh, is hereby published for general information.

By order of His Highness the Raj Pramukh,
N. S. Radhakrishna Sarma,
Secretary to Government.

Government Secretariat,
Law Department,
Trivandrum, 24th March 1953.

ACT IV OF 1953.

THE HOLDINGS (STAY OF EXECUTION PROCEEDINGS) (AMENDMENT) ACT.

Preamble. Whereas it is deemed necessary further to amend the Holdings (Stay of Execution Proceedings) Act, 1950 (Act VIII of 1950), as amended by Acts I of 1951 and VII of 1952, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Holdings (Stay of Execution Proceedings) (Amendment) Act, 1953.

(2) It shall come into force at once.

Amendment of Section 4, Act VIII of 1950.

2. In Section 4 of the Holdings (Stay of Execution Proceedings) Act, 1950 (Act VIII of 1950), as amended by Acts I of 1951 and VII of 1952, for the words "three years" the words "four years" shall be substituted.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT CENTRAL PRESS, TRIVANDRUM, 1953.